FIFTH DAY.

Monday, 6th October 1941.

The House reassembled at the Jagan Mohan Palace Pavilion on Monday, 6th October 1941, at 12 of the clock, Mr. President (*Rajamantrapravina* N. Madhava Rau, B.A., B.L., Dewan) in the Chair.

QUESTIONS AND ANSWERS—*contd.*

Appeal against the Acquittal of Mr. S. K. Venkataranga Iyengar.

Q.—158. **Mr. V. VENKATAPPA** (Channapatna—Rural).—

Will the Government be pleased to state :—

(*a*) whether they preferred an appeal to the High Court against the acquittal of Mr. S. K. Venkatarangaiengar, in Bangalore Sessions Case No. 30 of 1939-40;

(*b*) who was appointed to conduct the appeal in the High Court on behalf of Government;

(*c*) whether the High Court interfered with the order of acquittal;

(*d*) whether they are aware of the remarks made by the Chief Justice in the course of the disposal of the appeal that the power vested in the Government under Section 417, Criminal Procedure Code, is liable to be abused by the executive?

A.—**The SECRETARY to GOVERNMENT, LAW DEPARTMENT (Mr. H. V. Narayana Rao).**—

(*a*) Yes.

(*b*) Mr. K. Ramaswamy.

(*c*) No.

(*d*) Government have noted the remarks of the Chief Justice regarding the scope of Section 417, Cr. P. C., contained in the following passage of the judgment.

" Section 417 of the Code of Criminal Procedure puts no limit on the power of the executive Government to bring any order of acquittal before us on appeal. If we were to adopt the rule which Mr. Ramaswamy suggests we should adopt, under the provisions of Section 417 of the Code, it would be possible for the executive Government to compel this Court in effect to retry every acquitted person on the same principles in regard to the consideration of evidence as would be adopted in the Trial Court, that is it would be possible for the executive Government to give the prosecution a second chance in every case in which there was an acquittal. If that were really the effect of Section 417 of the Code of Criminal Procedure, I should regard it as an oppressive, dangerous and pernicious provision of law. It would obviously be open to the gravest abuse. It is useless in such a matter to suggest that we may always trust the executive Government not to abuse such a provision, if that is its effect. We have no reason whatever to suppose that the present Government of Mysore would abuse such a provision. I have had occasion before to say that in my experience the Government of Mysore exercises its powers under Section 417 of the Code with restraint and discretion. But it would be very foolish to judge the utility or safety of any piece of political or judicial machinery in the light only of the virtues of an existing Government. A dangerous weapon may be quite safe in the hands of one Government; it may be an instrument of evil oppression in the hands of its successor. If we look outside India, we see that a large part of the world to-day is under the control of Governments, of which it would certainly not be an over-statement to say that they spend much of their time and energy in harassing those of

their fellow-subjects who have the misfortune not to be among their supporters. In my opinion, the proper protection of the public against the abuse of such powers as are given by Section 417 of the Code of Criminal Procedure is not the discretion of changing Governments but the principle adopted and maintained by this Court for more than half a century to guide us in exercising our powers in regard to appeals against acquittals. If the law in Mysore were in this matter what Mr. Ramaswamy represents it to be in British India, for myself I should think it desirable that a change should be made in the law by legislation as soon as possible. I shall certainly lend no hand to any attempt to deprive His Highness' subjects of one of the advantages which they enjoy over British Indian subjects."

Mr. V. VENKATAPPA.—With reference to answer to (*a*) may I know if the Advocate-General was consulted before the appeal was preferred ?

Mr. PRESIDENT.—The member is repeating questions already put and answered in another connection.

Mr. V. VENKATAPPA.—What was the opinion expressed by the Advocate-General ?

Mr. PRESIDENT.—Government cannot disclose it.

Mr. V. VENKATAPPA.—What was the reason for appointing a separate officer for conducting the appeal ?

Mr. PRESIDENT.—Government had done so under similar circumstances in the past, and they have followed the same procedure in this case.

Mr. V. VENKATAPPA.—Had there been instances in the past of the Advocate-General being superseded ?

Mr. H. V. NARAYANA RAO.—There is no question of supersession at all.

Mr. V. VENKATAPPA.—The Public Prosecutor is an officer lower in status than the Advocate-General. Was there any instance in the past of a Public Prosecutor having been appointed in preference to the Government Advocate or Advocate-General as the case may be ?

Mr. PRESIDENT.—That question also has been answered already.

Death by Suicide of Mr. P. V. K. Murthy.

Q.—159. **Mr. B. M. VENUGOPAL SETTY** (Kolar—Urban).—

Will the Government be pleased to state :—

(*a*) whether it has come to their notice that Mr. P. V. K. Murthy of the Mysore Electrical Department committed suicide in July 1941 ;

(*b*) whether, in the light of certain letters and the consternation caused thereby in the minds of the public of the State, they would be pleased to set up an open Enquiry Committee to go into the details of the matter and to suggest ways and means of such tragedies not recurring in the State ;

(*c*) how the survivors in the family and the dependants of the late Mr. P. V. K. Murthy have been or will be compensated ;

(*d*) (i) the service,
(ii) qualifications,
(iii) pay at the commencement of 1940-41 and,
(iv) at the time of death of the late Mr. P. V. K. Murthy ?

A.—**The SECRETARY to GOVERNMENT, ELECTRICAL DEPARTMENT** (**Mr. M. G. Mehkri**).—

(*a*) Yes.

(*b*) No. As at the inquest it was held that his death was due to suicide.

(*c*) The question of granting scholarships to his children is under the consideration of Government.

(*d*) (i) Ten years.
(ii) B. Sc., B. S. E. E., A.M.I.E.E.
(iii) Rs. 450. Rs. 35 C.A.
(iv) Same as above.

Mr. B. M. VENUGOPALA SETTY.—Have the Government enquired into the causes of the death of the gentleman ?

Mr. M. G. MEHKRI.—The Police must have made the necessary enquiries.

Mr. B. M. VENUGOPALA SETTY.—When a highly placed Government officer committed suicide, should the Government not have scented that it must have been due to some extraordinary reasons and conducted an enquiry into the matter ?